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GOOGLE INC.

15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**
17 **SAN FRANCISCO DIVISION**

18 ORACLE AMERICA, INC.

19 Plaintiff,

20 v.

21 GOOGLE INC.

22 Defendant.
23
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25
26
27
28

Case No. 3:10-cv-03561-WHA

**DECLARATION OF CHRISTOPHER C.
CARNAVAL REGARDING GOOGLE'S
PRODUCTION OF ANDROID
FINANCIAL DATA IN THIS
LITIGATION**

1 I, Christopher C. Carnaval, hereby declare and state as follows:

2 1. I am an attorney with the law firm of King & Spalding LLP, which is counsel of
3 record for Google Inc. I have personal knowledge of the facts set forth in this declaration, and, if
4 called to do so, I could and would competently testify thereto.

5 2. I submit this declaration to correct the record before the Court regarding Google's
6 production of Android-related financial documents in this case. The history and extent of
7 Google's production is set forth at length below. In general, this declaration discusses the fact
8 that, contrary to Oracle's representations to the Court at the hearing last Thursday, May 3, 2012,
9 Google has produced its summary Android profit-and-loss spreadsheets, quarterly review
10 documents used with Andy Rubin, the head of Google's Android business line, and even specific
11 backup documentation supporting Google's Android-related engineering expenses. Google
12 began producing such documents in January 2011 and produced additional documents through
13 the close of discovery. In particular, the first, summary page of the document marked at Mr.
14 Rubin's April 27, 2012 deposition as TX 1079—which the Court reviewed at last Thursday's
15 hearing and discussed with counsel—was produced to Oracle, along with additional monthly and
16 quarterly detail for 2009 and 2010, in October 2011, as part of the backup materials for the report
17 of Google's copyright damages expert, Dr. Alan Cox. Not only has Google produced these
18 documents, Google witnesses with personal knowledge of how these records are kept, including
19 Aditya Agarwal and Andy Rubin, have testified at deposition that the documents are maintained
20 by Google in the ordinary course of business. This declaration addresses all these issues.

21 3. I was personally involved with the production of financial and damages-related
22 documents during the discovery phase of this litigation. As of August 15, 2011, Google had
23 produced more than 7,000 pages of financial and damages-related *non-custodial* documents,
24 many in their original spreadsheet format. These documents were identified in Google's
25 responses to Plaintiff's Interrogatory No. 17 and Plaintiff's Request for Production Nos. 38, 39,
26 88-91, 93-94, 96, 100, 101, 112, 120, 128-130, 160 and 168-174. Numerous additional financial
27 and damages-related documents were included in Google's production of *custodial* documents.
28

4. In the course of discovery in this litigation, Google collected and produced over 170,000 pages from Mr. Rubin, and over 88,000 pages from Mr. Agarwal. In all, Google collected, reviewed and produced millions of pages from approximately 100 different custodians and non-custodial document repositories.

A. Contrary to Oracle's statements to the Court, Google's witnesses have explained what the Google financial documents at issue are and that those documents are generated in the ordinary course of Google's business.

5. Exhibit A is a true and correct copy of pages RT 2689 - 2720 of the Transcript of Proceedings before this Court on May 3, 2012.

6. Page 2691, line 13 through page 2692, line 14 of Exhibit A states:

MR. NORTON: I can hand up [Trial] Exhibit 1069 [*sic*, 1079], which was the document produced by Google before Mr. Rubin's deposition and is the P&L for Android.

...

THE COURT: What kind of document is this?

MR. NORTON: It is a document that was -- Mr. Rubin testified he received from the Google lawyers. And he testified that it appeared to be similar to the types of documents he received --

THE COURT: Is it ginned up just for this case, or a real document used in the ordinary course of business?

MR. NORTON: This document, I'll have to defer to Google on that. This is not a document that anyone has testified about, other than Mr. Rubin, who said that he received this document from the lawyers. Dr. Cox cited a P&L statement in his report, and he, too, cited a document that he said he received from Google lawyers. Google, in its discovery response, did direct us to other P&L statements, but not the ones that Dr. Cox relied upon and not the one that Mr. Rubin produced for his deposition. *So this document, so far as we can tell, so far as the testimony so far establishes, is not a document that is maintained in the ordinary course of business. It may be, but no one has ever testified to that.*

(emphasis added)

7. In fact, Mr. Rubin testified at deposition that Trial Exhibit 1079 was one of the Android profit and loss ("P&L") documents generated every quarter in the ordinary course of business. Attached as Exhibit B is a true and correct copy of excerpts of the Transcript of the

Videotaped Deposition of Andrew Rubin, taken on April 27, 2012, which states, at page 71, line 9 through page 72, line 5:

Q. Mr. Rubin just a couple of quick questions. Is the accounting information that's reflected in the Android profit and loss document that's been marked Trial Exhibit 1079, is that routinely updated every quarter by Google?

A. It is. We do reports like this every quarter and they get given to me at the end of the quarter, when the reports are generated.

Q. And is it updated by your accounting department and reviewed by you in the ordinary course of business?

A. Yes, it is.

Q. On a regular basis?

A. Yes, quarterly.

Q. And does the information in Trial Exhibit 1079, the Android profit and loss information, accurately encompass Android's financial data for the time period shown in the documentation?

A. Yes, I believe so, to the -- you know, for the time period shown absolutely. As I mentioned previously, before 2008 we didn't have procedures to generate these reports.

8. Mr. Agarwal also testified at his deposition that Android profit and loss ("P&L") documents are generated every quarter in the ordinary course of business. Attached as Exhibit C is a true and correct copy of excerpts of the Transcript of the Videotaped Deposition of Aditya Kumar Agarwal, taken on April 8, 2011.

9. Page 38, line 7 through page 39, line 3 of Exhibit C states:

Q. What documents or databases would I need to look at to identify total revenues for Android?

A. The documents that have already been generated as part of -- as part of this deposition. The P&L, for example.

Q. So I'd look at the P&L. Are there any other documents that I would look at?

A. No.

...

1 Q. If I wanted to find the budget for Android, what would I look at?

2 A. It's part of the P&L.

3 Q. So everything is in the P&L?

4 A. Yes.

5 10. Page 42, lines 21-24 of Exhibit C states:

6 Q. Is this where I would go to find the most up-to-date information on ads
7 revenue and Android devices?

8 A. You would refer to the P&L.

9 11. Page 47, lines 7-10 of Exhibit C states:

10 Q. So does Android update its profit and loss statements monthly?

11 A. Only quarterly. But the P&L is broken down into months.

12 12. Page 50, lines 16-25 of Exhibit C state:

13 Q. And when you refer to the "central team," who are you referring to?

14 A. I'm referring to a team under one of our finance directors. They're the
15 ones who are responsible to give us these P&Ls on a quarterly basis. And then
16 they depend on us to give them insights into the business and question -- if we
17 have questions on any of these numbers, we go to them. But they're the ones who
use a consistent methodology to generate P&L on a quarterly basis.

18 13. On April 30, 2011, Google produced to Oracle a document entitled, "P&L
19 Methodology," bearing production numbers GOOGLE-03169626 - 9628. This document
20 provides questions and answers regarding how revenue and costs are reported in Google's P&L
21 statements.

22 **B. Google's production of its Android P&Ls in this litigation and specific disclosures of**
23 **those documents to Oracle during discovery.**

24 14. Page RT 2712, lines 7-12 of Exhibit A states:

25 **THE COURT:** Wait. Let me -- I want to get to the bottom of whether or not the
26 financial statements in the ordinary course of business, that were in this format,
were produced to Mr. Norton. Mr. Norton, what is the answer to that?

27

28

1 **MR. NORTON:** *The answer is, they were not.*

2 (emphasis added)

3 15. Page RT 2712, line 25 through page 2713, line 16 of Exhibit A states:

4 **THE COURT:** Well, I -- I would like to know whether or not the very
5 documents that Mr. Rubin would have looked at at the end of each quarter, for
6 2010, 2011, earlier, the ones done in the ordinary course of business without any
7 massaging at all, the historical actual thing that he held in his hand, was that
8 produced?

9 **MR. NORTON:** *No. We are confident that they were not.* Let me explain why
10 I am so confidence [sic].

11 **THE COURT:** This is an opinion you are about to give me?

12 **MR. NORTON:** I don't think so.

13 **THE COURT:** You don't actually know, you're just giving me an opinion.
14 You're confident -- anyone who is confident means it's an opinion.

15 **MR. NORTON:** I'm going to explain the evidence. *We don't have*
16 *spreadsheets that look like 1079, that first page. Those were not produced to us.*

17 (emphasis added)

18 16. Contrary to Oracle's counsel's representations to the Court, Google did produce
19 Android P&L statements during discovery in this case, beginning approximately one year ago.
20 For example, an Android P&L including actual revenue and cost values for 2008 through
21 October 2010 and bearing production number GOOGLE-00303710 was produced to Oracle on
22 January 6, 2011 as part of Google's production of documents from its internal Android finance
23 website; an Android P&L including actual revenue and cost values for 2008 through February
24 2011 and bearing production number GOOGLE-00395614 was produced to Oracle on April 5,
25 2011 as part of Google's *second* production of documents from its internal Android finance
26 website; and an Android P&L including actual revenue and cost values for 2010 and bearing
27 production number GOOGLE-00-00001717 was produced to Oracle on August 1, 2011. Google
28 also produced as part of its April 5, 2011 production of documents from its internal Android
 finance website a document bearing production numbers GOOGLE-00395945 - 949, which is

1 entitled "P&L Archives" and includes actual P&L data for 2008 and data for 2009. In addition,
2 Google produced Android P&L statements from the custodial records of Andrew Rubin (*e.g.*,
3 GOOGLE-01-00093920, produced on July 27, 2011) and from the custodial records of Nicole
4 Dalton (*e.g.*, GOOGLE-77-00039714, produced on August 2, 2011).

5 17. As Mr. Agarwal testified during his videotaped deposition taken on April 8, 2011,
6 the Android finance website is where Google maintains the data that is used to generate any
7 Android P&L statements during the ordinary course of business.

8 18. Page 41, line 5 through page 42, line 8 of Exhibit C states:

9 Q. So how do you maintain your profit and loss statements for Android?

10 A. It's also part of our website, not part of the P&L archive section. And that
11 document has already been generated.

12 Q. So there's a separate Android finance website in which you maintain the
13 profit and loss statements?

14 A. Not a separate website. A certain section of the website.

15 Q. Okay. There's a separate Android finance section of a website in which
16 the profit and loss statements are maintained?

17 A. Separate section within the Android finance website where P&L is
18 currently updated.

19 Q. Now, this Android finance website, what else is maintained on that
20 website?

21 A. Anything to do with Android finance. It could be budgets, P&L, or any
22 other document that we have to share between our Android finance team related
23 to -- related to budgets and planning.

24 Q. How often are profit and loss statements generated by Android finance?

25 A. Once a quarter.

26 Q. How often -- how frequently are projections generated by Android
27 finance?

28 A. Same.

Q. Is that the same for budgets? Once a quarter?

A. Yes.

1 19. Page 44, lines 14-23 of Exhibit C states:

2 **Q.** Where would I go to find the Android P&L?

3 **A.** It's part of -- part of our website. It's part of the main page of our website,
4 actually.

5 **Q.** The main page of the Android finance website?

6 **A.** That's right.

7 **Q.** Who else contributes, other than you, to the Android finance website?

8 **A.** Android finance team, me and Nicole Dalton.

9 **Q.** That is it?

10 **A.** Yes.

11 20. Mr. Agarwal also testified that the Android P&L statement provided the most
12 accurate data. Page 94, lines 19-23 of Exhibit C states:

13 **Q.** If I wanted to make sure I was looking at the most accurate data, would I
14 look at the profit and loss statement as opposed to the earnings report?

15 **A.** You will look at the profit and loss statement.

16 21. As mentioned above, on two separate occasions, Google gathered and produced
17 what I am informed by Google representatives to be content from its internal Android finance
18 website, including such content as the Android P&L bearing production number GOOGLE-
19 00303710 and the Android P&L bearing production number GOOGLE-00395614. *See*
20 Declaration of Rachel Claflin Regarding Google's Production of Android Financial Data in this
21 Litigation ("Claflin Decl."), filed herewith, at ¶ 3. As noted above, Mr. Agarwal confirmed at
22 his deposition that this internal Google website serves as the official repository for Google's
23 Android-related financial data and includes, for example, copies of Android P&L statements,
24 Android OC Quarterly Review presentations and Android Finance Review presentations.
25 Google first produced content from this internal site on January 6, 2011 bearing production
26 numbers GOOGLE-00303691 - 921. Google again produced content from this internal site on
27 April 5, 2011 bearing production numbers GOOGLE-00395080 - 6318.
28

22. I forwarded copies of the Android P&Ls bearing production numbers GOOGLE-00303710 and GOOGLE-00395614 to Google's damages experts, Dr. Alan Cox and Dr. Gregory Leonard, on May 5, 2011.

23. Appendix B to the Expert Report of Dr. Alan J. Cox, entitled "Documents Reviewed In Connection with *Oracle America, Inc. v. Google Inc.*," and Appendix B to the Expert Report of Dr. Gregory K. Leonard, entitled "Documents Reviewed Inc Connection with *Oracle America, Inc. v. Google Inc.*," each list GOOGLE-00303710 and GOOGLE-00395614

24. On August 1, 2011, Google served its final supplemental response to Oracle's Interrogatory No. 17, identifying the three Android P&L spreadsheets produced as of August 1, 2011 (GOOGLE-00303710, GOOGLE-00395614, GOOGLE-00-00001717) and providing an explanation of the revenues and costs identified on the produced Android P&Ls.

25. On April 26, 2012, Google produced to Oracle a further Android P&L, bearing production numbers GOOGLE-00-00002800 - GOOGLE-00-00002806. *See* Claffin Decl., filed herewith, at ¶ 5. I understand that this Android P&L was used as an exhibit, marked TX1079, during the deposition of Andrew Rubin, taken on April 27, 2012, and that this Android P&L was subsequently discussed during oral argument before this Court on May 3, 2012. *See* Exhibit A.

26. Based on my review of the Android P&Ls produced as GOOGLE-00303710 and GOOGLE-00395614, the actual cost data for fiscal years 2008, 2009 and 2010 are nearly identical to the actual cost data for fiscal years 2008, 2009 and 2010 included on the Android P&L produced as GOOGLE-00-00002800 - 2806 and marked as TX1079. In fact, the actual engineering costs for these years match up exactly.

27. I understand from reviewing the Transcript of the Videotaped Deposition of Andrew Rubin taken on April 27, 2012, excerpts of which are attached hereto as Exhibit B, that an Excel version of the Android P&L marked TX1079 was discussed on a phone conversation between Mr. Rubin and Dr. Cox. Page 4, line 14 through page 5, line 12 of Exhibit B states:

Q. When were you contacted by Dr. Cox to assist him in his report reinvestigation?

1 A. Allan [sic] Cox and I had a brief conversation on the phone probably
2 about four, five days ago.

3 Q. How long was that brief conversation?

4 A. Probably less than 30 minutes.

5 Q. Who else was on the line?

6 A. There were other people, but I didn't -- I didn't catch their names.

7 Q. Do you know why you were contacted by Dr. Cox?

8 A. I was there to, you know, answer his questions and make sure that he was
9 well-informed about how we manage our costs on Android.

10 Q. Did you do anything to prepare for the phone call?

11 A. Nothing other than refer to a spreadsheet, Excel, on the exhibit.

12 Q. You are pointing to the document in front of you?

13 A. Yeah, I haven't reviewed this document, but I have a P&L that we shared
14 with him. And we both had that on each side of the phone call.

15 28. On September 29, 2011, after the close of fact discovery, counsel for Google
16 received an updated Android P&L from Google that included actual revenue and cost
17 information through August 2011. *See* Claffin Decl., filed herewith, at ¶ 4. Based on my review
18 of this Android P&L, it appears to correspond with pages 1 through 6 of TX1079 (*i.e.*,
19 GOOGLE-00-00002800 - 2805). On September 29, 2011, counsel for Google forwarded a copy
20 of the updated Android P&L to Google's copyright damages expert, Dr. Cox. Dr. Cox relies on
21 "Android PnL_through_Aug 2011.xls" throughout his report. *See, e.g.*, Expert Report of Dr.
22 Alan J. Cox, Exhibits 3b and 3c. On October 3, 2011, counsel for Google also forwarded a copy
23 of this Android P&L to Google's patent damages expert, Dr. Leonard. Both Dr. Cox and Dr.
24 Leonard list "Android PnL_through_Aug 2011.xls" in Appendix B to their expert reports as one
25 of the "documents reviewed."

26 29. Immediately after Google served the Cox and Leonard reports on October 3,
27 2011, Oracle requested, and Google provided, all the backup materials supporting the
28

calculations in those reports. In particular, Google produced to Oracle, as backup for the Android profit and loss calculations in Exhibits 2a-b and 3a-c of Dr. Cox's report, an Android profit and loss document that provides all of the data included on the first page of the document that was later marked as TX 1079, which was the page shared with the Court and discussed by counsel at the hearing on Thursday, May 3, 2012. The Cox report backup document produced to Oracle in October 2011 also included additional monthly and quarterly Android financial data for 2009 and monthly Android financial data for 2010 that were not included on TX 1079. In other words, Oracle had all the summary P&L information on the first page of TX 1079, and more, for nearly seven months prior to Mr. Rubin's April 27, 2012 deposition.

C. Google's production of additional Android quarterly financial reviews that incorporate the information from the summary P&L documents.

30. In addition to the Android P&Ls themselves, Google produced multiple copies of its Android OC Quarterly Reviews from Q1 2009 through Q1 2011 approximately one year ago. Each of these Reviews includes an embedded summary of Android financial data taken from the Android P&L document. For example:

- Google produced to Oracle a document entitled, "Android - OC Quarterly Review - Q1 2009," bearing production numbers GOOGLE-00303725 - 756, on January 6, 2011 as part of Google's production of documents from its internal Android finance website.¹ The name "Andy Rubin" appears on the first page of this document and page 15 of the document, bearing production number GOOGLE-00303739, includes an Android P&L.
- Google produced to Oracle a document entitled, "Android - OC Quarterly Review - Q2 2009," bearing production numbers GOOGLE-03371505 - 539, on July 7, 2011. Page 5 of the document, bearing production number

¹ Google produced another copy of this document (e.g., GOOGLE-00395727 - 758) on April 5, 2011 as part of its second production of documents from its internal Android finance website.

1 GOOGLE-03371509, includes an Android P&L.

- 2 • Google produced to Oracle a document entitled, “Android - OC Quarterly
- 3 Review - Q3/Q4,” bearing production numbers GOOGLE-00303867 - 884, on
- 4 January 6, 2011 as part of Google’s production of documents from its internal
- 5 Android finance website.² The names “Andy Rubin” and “Aditya Agarwal”
- 6 appear on the first page of this document. Page 5 of the document, bearing
- 7 production number GOOGLE-00303871, includes an Android P&L.
- 8 • Google produced to Oracle a document entitled, “Android - OC Quarterly
- 9 Review - Q1 2010,” bearing production numbers GOOGLE-00395147 - 170,
- 10 on April 5, 2011 as part of Google’s *second* production of documents from its
- 11 internal Android finance website. The names “Andy Rubin” and “Aditya
- 12 Agarwal” appear on the first page of this document. Page 7 of the document,
- 13 bearing production number GOOGLE-00395153, includes an Android P&L.
- 14 • Google produced to Oracle a document entitled, “Android - OC Quarterly
- 15 Review - Q2 2010,” bearing production numbers GOOGLE-34-00089029 -
- 16 050, on July 21, 2011. The names “Andy Rubin” and “Aditya Agarwal”
- 17 appear on the first page of this document. Page 5 of the document, bearing
- 18 production number GOOGLE-34-00089033, includes an Android P&L.
- 19 • Google produced to Oracle a document entitled, “Android - OC Quarterly
- 20 Review - Q4 2010,” bearing production numbers GOOGLE-00395207 - 248,
- 21 on April 5, 2011 as part of Google’s *second* production of documents from its
- 22 internal Android finance website. The names “Andy Rubin” and “Aditya
- 23 Agarwal” appear on the first page of this document. Page 5 of the document,
- 24 bearing production number GOOGLE-00395211, includes an Android P&L.

25
26
27 ² Google produced another copy of this document (e.g., GOOGLE-00395188 - 205) on April 5, 2011 as part of its
28 second production of documents from its internal Android finance website.

- Google produced to Oracle a document entitled, “Android - OC Quarterly Review - Q1 2011,” bearing production numbers GOOGLE-77-00053555 - 575, on August 18, 2011. The names “Andy Rubin” and “Aditya Agarwal” appear on the first page of this document. Page 8 of the document, bearing production number GOOGLE-77-00053562, includes an Android P&L.
- Google’s document production includes over 200 copies of other versions of the OC Quarterly Reviews described above (*e.g.*, GOOGLE-01-00086437, GOOGLE-01-00094260, GOOGLE-01-00136051, GOOGLE-01-00136157, GOOGLE-21-00024042, GOOGLE-01-00072883, GOOGLE-21-00022106, GOOGLE-21-00022132, GOOGLE-27-00016354 - 377, GOOGLE-01-00053552, GOOGLE-01-00065207, GOOGLE-01-00144688, GOOGLE-03-00142892, GOOGLE-21-00009829, GOOGLE-21-00010995, GOOGLE-21-00011020, GOOGLE-01-00016596, GOOGLE-01-00048633, GOOGLE-01-00048876, GOOGLE-01-00145779, GOOGLE-21-00000919, GOOGLE-21-00000948, GOOGLE-21-00001214, GOOGLE-03-00144069, GOOGLE-21-00000999, GOOGLE-21-00001081, GOOGLE-21-00001293, GOOGLE-21-00001316, GOOGLE-21-00001343, etc.), including versions produced from the custodial records of Andy Rubin and Aditya Agarwal. Some of these other OC Quarterly Reviews were produced to Plaintiff as early as June 2011.

D. Google’s production of additional detail supporting its engineering operating expenses for Android.

31. Page RT 2714, line 23 through page RT 2715, line 20 of Exhibit A states:

THE COURT: All right. That’s a good point. It would be okay -- it would be perfectly okay if these numbers were drawn from the same columns on some other document that was produced in the ordinary course of business, and this just happens to be a summary sheet, so long as we could go back to the original documents. And if there was a big number, we could go behind it and find out what it was based on. That’s what we ought to be asking here is, where are the original documents that he held in his hand, so that you could sit down at a desk, put on your green eyeshade like Bob Cratchit, and then go to work seeing if you could reverse engineer this thing to see if the numbers add up, or whether it’s

1 been ginned up for litigation. It wouldn't be the first time something had been
 2 ginned up for litigation. So that's what we ought to be trying to get to the bottom
 3 of. And then if -- a big number like 28 million, you ought to be entitled to see the
 4 detail behind that.

5 **MR. NORTON:** *I don't think there is any dispute here that we did not get that*
 6 *level of detail.*

7 **THE COURT:** Well, then, maybe you should get the detail.

8 32. Contrary to Oracle's counsel's representations to the Court, Google did in fact
 9 provide Oracle with at least some additional detail concerning the bases for the engineering
 10 operating expense figures included on the Android P&L statements over one year ago. For
 11 example, Google produced copies of its Android Finance Review presentations at least as early
 12 as April 5, 2011 as part of Google's *second* production of documents from its internal Android
 13 finance website (*e.g.*, GOOGLE-0395669 - GOOGLE-0395682 (dated February 9, 2010),
 14 GOOGLE-00395696 - GOOGLE-00395716 (dated May 13, 2010), GOOGLE-00395717 -
 15 GOOGLE-00395726 (dated August 9, 2010), GOOGLE-00395683 - GOOGLE-00395695 (dated
 16 December 10, 2010)). Each of these Android Finance Review presentations includes detailed
 17 information relating to Android's engineering operating expenses, including actual engineering
 18 operating expenses for 2010 Q1. *See, e.g.*, page 4 (GOOGLE-00395720) of the Android Finance
 19 Review dated August 9, 2010 (GOOGLE-00395717 - GOOGLE-00395726), which identifies
 20 \$27.3 million in "Total Eng Expenses" for "Q1'10" as well as a breakdown of each "Spend
 21 Category" constituting the total value; *see also* page 13 (GOOGLE-00395695) of the Android
 22 Finance Review dated December 10, 2010 (GOOGLE-00395683 - GOOGLE-00395695) and
 23 page 16 (GOOGLE-00395711) of the Android Finance Review dated May 13, 2010 (GOOGLE-
 24 00395696 - GOOGLE-00395716). Several versions of the Android Finance Reviews were
 25 collected and produced from the custodial records of Mr. Rubin, Mr. Agarwal and others (*e.g.*,
 26 GOOGLE-01-00093809, GOOGLE-57-00018579, GOOGLE-77-00000173, GOOGLE-01-
 27 00093736, GOOGLE-57-00007493, GOOGLE-21-00022210, GOOGLE-01-00050315,
 28 GOOGLE-21-00001393), some of which were produced to Oracle as early as April 2011. In

1 keeping with the Court's order at last Thursday's hearing, Google will produce (and re-produce)
 2 additional documents today, Monday, May 7, 2012, containing additional quarterly backup data
 3 supporting its Android-related engineering operating expenses for 2010 and 2011.

4 33. Google also produced financial documents that include detail regarding Google's
 5 engineering and other expenses related to Android on April 5, 2011 as part of its *second*
 6 production of documents from its internal Android finance website (*e.g.*, GOOGLE-00395261,
 7 GOOGLE-00396037). Google again produced financial documents that include engineering and
 8 other expenses related to Android on June 30, 2011 (*e.g.*, GOOGLE-03349764, GOOGLE-
 9 03349831). As with the Android Finance Review presentations described above, these
 10 documents also provided additional details with respect to Android-related expenses. For
 11 example, GOOGLE-03349764, which includes the heading "Eng Android 2011 Annual Plan,"
 12 contains a total operating expenses amount for Q1 FY10 and provides a breakdown of categories
 13 constituting the total value.

14 34. In addition to Google's search for non-custodial financial documents related to
 15 Android, Google also conducted a search of its custodial records for financial documents related
 16 to Android. Counsel for Google instructed Google's outside document vendor to apply the
 17 following finance- and damages-related search terms to its custodial data, which Oracle did not
 18 oppose: (Android* OR Dalvik) AND (Apache OR Harmony OR licens* OR agreement OR
 19 contract OR "intellectual property" OR IP OR patent* OR copyright* OR trademark* OR
 20 infring* OR Gosling OR Yellin OR Tuck OR Fresko OR Bak OR Griesemer OR Gong OR
 21 revenue* OR income OR expense* OR profit* OR loss* OR cost* OR financ* OR \$* OR
 22 monetize* OR million OR billion OR budget* OR projection OR fragment* OR fork* OR
 23 compatib* OR incompatib* OR OpenJDK OR "open source" OR acquir* OR acquisition OR
 24 "stock purchase"). *See* Claflin Decl., filed herewith, at ¶ 6.

25 35. Indeed, Oracle's outside counsel itself proposed a nearly identical search string.
 26 *See* Exhibit D, which is a true and correct copy of a letter dated March 8, 2011 from Richard S.
 27 Ballinger of Morrison & Foerster LLP to Steven T. Snyder of King & Spalding LLP.
 28

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct and that this declaration was executed this 7th day of May, 2012, in
3 New York, New York.

4 Dated: May 7, 2012



6 Christopher C. Carnaval